

# PATENT COOPERATION TREATY

## From the INTERNATIONAL BUREAU

PCT

## **NOTIFICATION OF ELECTION**

(PCT Rule 61.2)

To:

Assistant Commissioner for Patents  
United States Patent and Trademark  
Office  
Box PCT  
Washington, D.C. 20231  
ÉTATS-UNIS D'AMÉRIQUE

in its capacity as elected Office

Date of mailing (day/month/year) 13 October 1999 (13.10.99)	in its capacity as elected Office
International application No. PCT/US99/02953	Applicant's or agent's file reference 08326/045W01
International filing date (day/month/year) 11 February 1999 (11.02.99)	Priority date (day/month/year) 11 February 1998 (11.02.98)
Applicant  CHANCE, Britton	

1. The designated Office is hereby notified of its election made:

in the demand filed with the International Preliminary Examining Authority on:

08 September 1999 (08.09.99)

in a notice effecting later election filed with the International Bureau on:

2. The election  was

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was not

**made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).**

<p><b>The International Bureau of WIPO</b>  <b>34, chemin des Colombettes</b>  <b>1211 Geneva 20, Switzerland</b></p> <p>Facsimile No.: (41-22) 740.14.35</p>	<p><b>Authorized officer</b></p> <p><b>Lazar Joseph Panakal</b></p> <p>Telephone No.: (41-22) 338.83.38</p>
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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 08326/045WO1	<b>FOR FURTHER ACTION</b>		See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US99/02953	International filing date (day/month/year) 11 FEBRUARY 1999	Priority date (day/month/year) 11 FEBRUARY 1998	
International Patent Classification (IPC) or national classification and IPC IPC(6): A61B 5/00; and US Cl.: 600/310, 323, 324, 328, 340, 475, 477, 479			
Applicant NON-INVASIVE TECHNOLOGY, INC.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

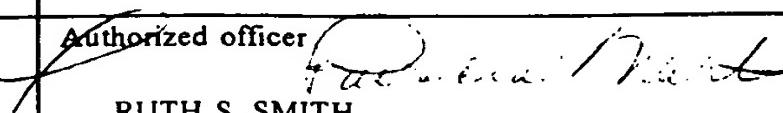
2. This REPORT consists of a total of 4 sheets.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I  Basis of the report
- II  Priority
- III  Non-establishment of report with regard to novelty, inventive step or industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

Date of submission of the demand 05 SEPTEMBER 1999	Date of completion of this report 31 OCTOBER 1999
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer  RUTH S. SMITH
Facsimile No. (703) 305-3230	Telephone No. (703) 308-3063

**I. Basis of the report**

1. This report has been drawn on the basis of (*Substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments*):

- the international application as originally filed.
- the description, pages 1-37, as originally filed.  
pages NONE, filed with the demand.  
pages NCNE, filed with the letter of \_\_\_\_\_  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- the claims, Nos. 1-35, as originally filed.  
Nos. NONE, as amended under Article 19.  
Nos. NONE, filed with the demand.  
Nos. NONE, filed with the letter of \_\_\_\_\_  
Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- the drawings, sheets/fig 1-26, as originally filed.  
sheets/fig NONE, filed with the demand.  
sheets/fig NONE, filed with the letter of \_\_\_\_\_  
sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_

2. The amendments have resulted in the cancellation of:

- the description, pages NONE.
- the claims, Nos. NONE.
- the drawings, sheets/fig NONE.

3.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the ~~Supplemental Box~~ Additional observations below (Rule 70.2(c)).

4. Additional observations, if necessary:

NONE

**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The question whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been and will not be examined in respect of:

- the entire international application.  
 claims Nos. 10, 16

because:

- the said international application, or the said claim Nos.    relate to the following subject matter which does not require international preliminary examination (*specify*).  
  
 the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 10, 16 are so unclear that no meaningful opinion could be formed (*specify*).  
  
 the claims, or said claims Nos.    are so inadequately supported by the description that no meaningful opinion could be formed.  
  
 no international search report has been established for said claims Nos.   .

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/02953

**V. Reasons statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

## Novelty (N)

Claims 1-9, 11-15, 17-35 YES  
Claims NONE NO

## Inventive Step (IS)

Claims 1-9, 11-15, 17-35 YES  
Claims NONE NO

## Industrial Applicability (IA)

Claims 1-9, 11-15, 17-35 YES  
Claims NONE NO**2. CITATIONS AND EXPLANATIONS**

Claims 1-9, 11-15 and 17-35 meet the criteria set out in PCT Article 33(2)-(4) because the prior art does not teach or fairly suggest an optical system/method for non-invasive examination of breast tissue including an array of optical input, detection ports, and a processor which detects photons of light that have migrated in the tissue to form at least two data sets which are correlated to detect abnormal tissue.

## ----- NEW CITATIONS -----

NONE